

STANDARDS IN SCOTLAND'S SCHOOLS ETC. ACT 2000

EXPLANATORY NOTES

THE ACT

School Boards

Section 26 – Role of School Board in raising standards and improving quality of education

58. The School Boards (Scotland) Act 1988 identifies the main functions of a School Board as: promoting contact between the school, parents and the community (section 12); taking part in the selection of headteachers and other senior staff (schedule 2); encouraging community use of school premises and, subject to the direction of the education authority, controlling their use outwith school hours (section 14); setting occasional holidays during term time after consultation with the education authority (section 14) and approving the headteacher's plans for use of the budget for the purchase of books and other materials (section 9). Section 26 of the Act amends section 1(2) of the School Boards (Scotland) Act 1988 to require that a School Board exercises its functions with a view to raising standards of education in the school and to support those managing the school to secure improvement in the quality of education provided by the school. In practice this should help focus the School Boards' activities and reaffirm what successful Boards already do.

Section 27 – Election to School Board after school ceases to be self-governing

59. **Section 27** amends section 2A of the School Boards (Scotland) Act 1988, which makes provision as respects elections for members of School Boards, by inserting a new subsection (3A). This provision is consequential on sections 17 to 23 of the Act dealing with abolition of self-governing schools.

Section 28 – Vacancies for parent members of School Board

60. Under section 2 of the School Boards (Scotland) Act 1988 each School Board consists of staff members, co-opted members and parent members, the latter being elected by parents of pupils in attendance at the school. Under sections 2A and 2B, parent members are elected at regular elections (held every two years). In the event of no parents, or not enough parents, being elected at such an election, a by-election is held. If not enough parents are elected at a by-election, the Board may co-opt up to two parent members from amongst the parents of pupils at the school. If a vacancy for a parent member arises in between regular elections, a by-election is held within three months if the Board requests it, or else at the next regular election period (which is between 1 September and 30 November each year). If no parent is elected at such a by-election, the Board may co-opt a parent member (as long as there are no more than two co-opted parent members on the Board at any one time).

61. **Section 28** of the Act amends the existing requirement to hold a by-election to fill parental vacancies on a School Board which arise either following a regular election of parent members, or during members' term of office.
62. Subsection (1) provides that if a vacancy arises during a parent member's term of office, a by-election shall not take place unless 30 parents, or a quarter of the electoral roll, whichever is the smaller number, sign a request for a by-election to fill the casual vacancy within two months of the vacancy being announced. If no request is made, the Board can co-opt a parent member under section 2B(3) of the 1988 Act, as substituted by paragraph 4 of schedule 1 to the Act. The subsection also provides that the education authority will take reasonable steps to notify parents that a vacancy has arisen and the circumstances in which a by-election will be held.
63. In relation to a regular election of parent members, which is held for half the parent members every two years, subsection (2) provides that a by-election shall no longer be held. This means that at a regular election, if not enough parents are elected to fill vacancies for parent members, the Board can go straight to co-opt up to two parent members in terms of section 2A(4) of the 1988 Act, as substituted by paragraph 3 of schedule 1 to the Act.
64. Necessary consequential amendments to the School Boards legislation are included in schedule 1.

Section 29 – Restriction on councillor's membership of School Boards

65. **Section 29** amends section 5(2) of the 1988 Act to prohibit a local councillor from being a member of any School Board which is within his or her Council's area. At present the prohibition under section 5(2) applies only to councillors whose electoral ward falls wholly or partly within the catchment area of the school. This change has been made to avoid a conflict of interest which might arise if a councillor was both a parent member of a Board and on the Education Committee making decisions related to that school.
66. To help clarify the effect of the amendments made by the Act to the 1988 Act, the main changes have been incorporated into the relevant sections of the 1988 Act for illustrative purposes. This is shown in the annex.

Section 30 – Involvement of School Board in preparing short leet for appointment of headteacher etc.

67. **Section 30** amends schedule 2 of the 1988 Act (which relates to the appointment of headteachers, deputy headteachers and assistant headteachers), by removing paragraphs 9 to 13 (which relate to the power of the Board to add or delete names on a short leet for headteacher appointments and the production of a short leet for other senior staff appointments), and inserting new paragraphs 9 and 10. These new paragraphs provide for a more streamlined procedure whereby the authority prepares a short leet in consultation with the School Board and the headteacher (if the post is that of deputy headteacher or assistant headteacher).

Section 31 – Delegation of education authority's functions to School Board

68. **Section 31** repeals paragraphs 2 to 13 of schedule 3 of the 1988 Act. These paragraphs allow a School Board to request the delegation of functions from the education authority and give the Board power (following a ballot of parents) to refer the request to the Scottish Ministers should the authority refuse. The functions that may be delegated are described in section 15 of the 1988 Act. While there remains a right for authorities to delegate functions to Boards if they so wish (under section 15 of the 1988 Act), and in practice they would do so in consultation with the Board, there are now no longer formal powers for the Board to challenge a refusal by the authority of the Board's request for delegation of functions. To date, no Board has successfully challenged a refusal to delegate functions.